

June 30, 2025

BY ECF

The Honorable Paul A. Engelmayer
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Mami Chelo Foundation, et ano. v. U.S. Dep't of Immigration and Customs Enforcement, et ano.*, No. 25 Civ. 2546 (PAE)

Dear Judge Engelmayer:

On behalf of the parties in the above-referenced case brought by Plaintiffs Mami Chelo Foundation and Andrew Free (collectively, "Plaintiffs") pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, against U.S. Immigration and Customs Enforcement ("ICE"), and United States Department of Homeland Security—Office of Inspector General ("DHS-OIG," and together with ICE, "Defendants"), we write respectfully in advance of the initial pretrial conference scheduled for Wednesday, July 9, 2025, at 2:00 p.m.

Nature of the Action

Plaintiff filed the complaint in this action on March 28, 2025. Dkt. No. 2. Defendants answered the complaint on May 28, 2025. Dkt. No. 21. The FOIA requests at issue were sent to ICE (two requests) and DHS-OIG (one request), and they seek certain records related to the death of Cristian Dumitrascu while in the custody of ICE in March 2023.

With respect to the request to DHS-OIG, after the complaint was filed, but before Defendants answered, DHS-OIG made a production of non-exempt, responsive records, with redactions. Plaintiffs have reviewed the production and consider the FOIA request to DHS-OIG "fully completed," and Plaintiffs will not be challenging redactions or adequacy of search.

With respect to the requests to ICE, Plaintiffs sought both video records and documents. After the complaint was filed, but before Defendants answered, ICE made a production of non-exempt, responsive documentary records, with redactions. Plaintiffs have reviewed the production and consider the requests for documents complete, and Plaintiffs will not be challenging redactions or adequacy of search. In addition, the parties have agreed to narrow the scope of the video records sought, and ICE has agreed to produce the videos, subject to applicable redactions, on or before July 11, 2025.

After the videos are produced and Plaintiffs confirm that the narrowed scope has been produced, the parties will explore a consensual resolution of Plaintiffs' claim for attorneys' fees.

Page 2

Plaintiffs will provide itemized billing records in support of the claimed fees, with any privileged information redacted, to the government to facilitate such discussions.

The Parties Respectfully Submit That No Case Management Plan Is Necessary

Because this is an action brought under FOIA, which in essence seeks review of agency action, Local Civil Rule 16.1 exempts the parties from the requirement of a mandatory scheduling order contained in Fed. R. Civ. P. 16(b). Accordingly, there is no need for a case management plan and scheduling order pursuant to Fed. R. Civ. P. 26(f). Furthermore, no discovery schedule is needed at this time because the parties expect that, should litigation be necessary, this case, like most FOIA cases, will be resolved through cross-motions for summary judgment following the conclusion of Defendants' search for, and production of, responsive, non-exempt records. *See Wood v. F.B.I.*, 432 F.3d 78, 85 (2d Cir. 2005).

The parties have conferred and believe that it may ultimately be possible to resolve this matter without the need for judicial intervention, though the parties reserve the right to seek the assistance of the Court, as appropriate, should their respective views on this change. Accordingly, the parties respectfully request that the Court permit the parties to submit a further status report on July 23, 2025, advising the Court of the parties' progress on this matter.

We thank the Court for its consideration of this request.

Respectfully submitted,

s/ Adam Pollock

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The Court thanks the parties for the update. In light of this, the Court hereby adjourns the initial conference scheduled for tomorrow at 2 p.m., and directs the parties to submit a joint status report on July 23, 2025, and for every 30 days thereafter.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Date: July 8, 2025

¹ Consent for signature obtained pursuant to S.D.N.Y. ECF Rule 8.5(b).